

**State Board of Health
Minutes
March 7, 2019 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233**

Members present: Faye Prichard, Chair; Gary Critzer; Tommy East; Jim Edmondson; Lisa Harrison; Linda Hines; Anna Jeng, ScD; Patricia Kinser, PhD; Wendy Klein, MD; Benita Miller, DDS; Holly Puritz, MD; Stacey Swartz, PharmD; Katherine Waddell; and Mary Margaret Whipple

Members absent: Jim Shuler, DVM

VDH staff present: Dr. Norm Oliver, State Health Commissioner; Dr. Laurie Forlano, Deputy Commissioner for Population Health; Bob Hicks, Deputy Commissioner for Community Health Services; Dr. Parham Jaber, Chief Deputy Commissioner for Public Health and Preparedness; Joe Hilbert, Deputy Commissioner for Governmental and Regulatory Affairs; Cathy Peppers, Administrative Assistant; Catherine West, Administrative Assistant; Maribeth Brewster, Director, Office of Communications; Stephanie Gilliam, Deputy Director for Budget, Office of Financial Management; Allen Knapp, Director, Office of Environmental Health Services; Julie Henderson, Director, Division of Food and General Environmental Services, Office of Environmental Health Services; Dr. Vanessa Walker Harris, Director, Office of Family Health Services; Kim Beazley, Deputy Director, Office of Licensure and Certification; Ruthanne Risser, Director, Acute Care Division, Office of Licensure and Certification; and Dr. Melissa Viray, Deputy Director, Henrico County and Richmond City Health Districts

Others Present: Robin Kurz, Grant Kronenberg, and Allyson Tysinger, Office of the Attorney General; and Dr. Alton Hart, Director, Crater Health District

Call to Order

Ms. Prichard called the meeting to order at 9:00 a.m. Ms. Hines led those in attendance in the pledge of allegiance.

Welcome and Introductions

Ms. Prichard welcomed those in attendance to the meeting. Mr. Hilbert then reviewed the agenda and the items contained in the Board's notebooks.

Approval of December 13, 2018 Minutes

Dr. Kinser made a motion to approve the minutes from the Board's December 13, 2018 meeting with Dr. Klein seconding the motion. Ms. Whipple told the Board that members of the public may not know what the term "beach action value" is as noted on page six of the minutes. Dr. Forlano explained that beach action value is the value at which a beach advisory would be issued and is the result of laboratory tests on bacteria levels in a water sample. Ms. Prichard suggested

that VDH staff could wordsmith the draft minutes to include a definition of the term “beach action value”. Ms. Whipple then made a motion that the draft minutes be revised as suggested by Ms. Prichard with Dr. Puritz seconding the motion. Ms. Prichard called for a vote on this motion to amend the draft minutes as presented by VDH. The motion was approved unanimously by a voice vote. Ms. Prichard then called for a vote to approve the minutes as amended. The amended minutes were approved unanimously by a voice vote.

Commissioner’s Report

Dr. Oliver provided the Commissioner’s Report to the Board. He began with the introduction of the “agency stars” for the meeting: Ruthanne Risser with the Office of Licensure and Certification and Dr. Melissa Viray with the Henrico and Richmond City Health Districts. Dr. Oliver then reminded the Board that Ms. West has resigned from VDH and that today’s meeting is her last Board of Health meeting. He also presented Ms. West with a Certificate of Recognition and Appreciation for her service to the Board of Health.

Dr. Oliver then updated the Board on key issues and projects that VDH is currently involved with, including:

- Status of public health accreditation for VDH;
- The Partnership for a Healthy Virginia initiative;
- Update on maternal mortality information and concerns;
- Recent emergency preparedness activities;
- Update on the Virginia LARC initiative;
- Food Insecurity Initiative;
- Public health impacts of climate change;
- Integration of public and behavioral health, ASTHO Learning Community;
- Commissioner’s Public Health Policy Advisory Council; and
- VDH employee town hall meetings.

Dr. Oliver ended his report by informing the Board about recent VDH key personnel changes:

- Dr. Lilian Peake – Director, Office of Epidemiology; and
- Jamie Porter – Chief Operating Officer, Cumberland Plateau Health District.

There was discussion about better ways to get data regarding maternal mortality; the Aunt Bertha program for assistance with food insecurity issues; and Board of Health involvement in the Commissioner’s Public Health Policy Advisory Council.

There was also discussion about changes to the LARC program. Dr. Puritz shared with the Board that this is budget language that impacts the LARC initiative. Dr. Walker Harris told the Board that the budget amendment would change the character of the program in that VDH would purchase the LARC devices to be provided to local health departments and other agencies but that reimbursement for insertion and removal of the devices would no longer be covered. VDH would also have to make changes and get permission to become a wholesale distributor. There was discussion concerning how the Board could voice its opposition to the Governor about the

budget amendment. Dr. Kinser made a motion that a letter be sent to the Governor from the Board of Health with Ms. Waddell seconding the motion. The motion was approved unanimously by a voice vote.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the December 2018 meeting, the Commissioner has not approved any actions on behalf of the Board while the Board was not in session.

Mr. Hilbert advised the Board that there are eight periodic reviews in progress:

- Public Participation Guidelines (12VAC5-11);
- Regulations Governing Eligibility Standards and Charges for Medical Services to Individuals (12VAC5-200);
- Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (12VAC5-220);
- Regulations for the Licensure of Nursing Facilities (12VAC5-371);
- Regulations for the Licensure of Hospice (12VAC5-391);
- Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees (12VAC5-408);
- Food Regulations (12VAC5-421); and
- Regulations Governing the Virginia Physician Loan Repayment Program (12VAC5-508).

He also updated the Board concerning executive branch review activity on regulatory actions since the December 2018 meeting.

Budget Update

After a short break, Ms. Gilliam provided an update on the budget. She reviewed VDH's funding and staffing from fiscal year 2008 to fiscal year 2020. She also reviewed various budget amendments proposed by both chambers of the General Assembly that impact VDH. She also told the Board about three budget amendments that are language only items. Finally, she told the Board about proposed amendments to the introduced budget that will affect state employee salary adjustments.

Legislative Update

Mr. Hilbert provided the legislative update. He summarized several of the bills that were enacted by the General Assembly which directly or indirectly pertained to public health. Bills that were passed include:

- HB2384/SB1295 – tobacco free schools;
- HB2748/SB1727 – prohibit sale of tobacco products/nicotine vapor/alternative nicotine products to individuals under age 21;
- HB2798/SB1216 – All Payer Claims Database;
- HB1914 – post exposure prophylaxis authority for VDH practitioners;
- HB2425 – reporting of healthcare associated infections to VDH;

- HB2546 – maternal mortality review team;
- HB2445/SB1439 – death certificates/mandatory electronic filing;
- HB1870/SB1277 – COPN and facility licensure/disaster exemption;
- SB1366 – facility inspections/coordination;
- HB2215 – Tdap vaccine schedule for school entry;
- HJR626 – access to shingles vaccine report;
- HB2318 – naloxone administration/LHD nurses and school health services personnel;
- HB2322 – onsite sewage systems/oversight and enforcement/VDH report;
- HB1663 – restaurants/certified food protection managers;
- HB703 – advance estimate of payment/patient amount; and
- HB2057 – location of OCME headquarters.

The following bills did not pass:

- HB2115/SB1283 – state medical facilities plan – review and update;
- SB1622 – water lead testing/child day care;
- SB1629 – water lead testing/schools;
- HB2004/SB1280 – community health workers; and
- SB1760 – diagnostic x-ray machine/operator.

Proposed Amendments to Board of Health Bylaws

Mr. Hilbert reviewed the proposed amendments to the Board of Health Bylaws. In drafting the amendments, VDH staff consulted with staff from the Office of the Attorney General and also reviewed current bylaws from the state boards for Medical Assistance Services, Behavioral Health and Developmental Services, and Social Services. The proposed changes include adding a statement that the Board has the authority to adopt bylaws; technical changes concerning authority and limitations; adding a new section concerning Board membership; adding a new section concerning representation of the Board before the General Assembly as well as the means by which individual Board members may express their personal views to the media and public; adding a new section concerning the orientation of new Board members; adding a new section regarding a meeting in a closed session; adding a section about retention of official records of the Board; clarifying language concerning the terms and duties for executive committee members; technical changes concerning public notice of meetings; technical changes concerning quorum; technical changes concerning conduct of meetings; and adding a section for a periodic review of the bylaws. Mr. Critzer made a motion to approve the amendments to the bylaws with Ms. Swartz seconding the motion.

There was discussion about the length of time for the public comment period during the Board meetings. Mr. Hilbert told the Board that the public comment guidelines are contained in the public participation policy. There was also discussion about who represents the Board when requested to appear before the General Assembly. There being no further discussion, Ms. Prichard called for vote on the motion to approve the amendments to the bylaws. The amendments were approved unanimously by a voice vote.

Public Comment

Wally Dorsey – He told the Board that there is a problem in Virginia about elevated radon levels. He also stated that Virginia law is not enforced with regard to radon. He told the Board that complaints are submitted to VDH and that nothing is being done about the complaints. A regulatory program governing radon professionals is needed.

Ms. Dixon reading a letter written by Marty Beirme – Mr. Beirme wrote to the Board that he has been diagnosed with lung cancer and lives in a house with a radon mitigation system. He related his experiences with radon testing that revealed radon levels in his home which are above EPA recommendations.

David Bailey – He told the Board that radon is the second leading cause of lung cancer. He said that Virginia is behind other neighboring states with regard to programs to protect public health with regard to radon.

Nominating Committee

Ms. Prichard recommended three individuals to serve on the nominating committee, which will recommend a slate of officers for election at the June 6, 2019 Board meeting. Those individuals are Mr. East, Dr. Kinser, and Ms. Swartz; Dr. Kinser will serve as chair. The nominating committee was approved by unanimous consent.

Lunch Presentation

After a brief break for the Board members to pick up their lunches, Mr. Hicks introduced Dr. Hart as the lunch speaker. Dr. Hart talked about factors that impact health as well as social determinants of health. He also told the Board about the top ten adverse childhood experiences. He went on to explain how each trauma is an event and each experience can be different. He told the Board how every system of the body can be impacted by adverse childhood experiences. He shared some of the efforts and programs that Crater District staff are working on, in collaboration with other state government agencies, local government, school systems, and other community partners in order to create resilient communities.

There was discussion about the importance of educating parents to show how household environments impact children.

Regulatory Action Item

Food Regulations (12VAC5-421) – Fast Track Amendments

Mr. Knapp presented the fast track amendments. Senate Bill 470 (2018) amended § 3.2-5121 of the Code of Virginia to remove the requirement that rabbits must be slaughtered or processed under a voluntary inspection program conducted by the state agency that has animal health jurisdiction (Virginia Department of Agriculture and Consumer Services) or a voluntary inspection program that is administered by the U.S. Department of Agriculture prior to

introduction to commerce. The fast track amendments allow food establishments to receive commercially slaughtered or processed rabbits without voluntary inspection as outlined in SB470. Dr. Puritz made a motion that the fast track amendments be approved with Dr. Klein seconding the motion. The fast track amendments were approved unanimously by a voice vote

Melendez v. Board of Health

Ms. Prichard told the Board that she would entertain a motion to go into closed session pursuant to § 2.2-3711(a)(7) and (8) of the Code of Virginia for consultation with, and the provision of, legal advice by the Office of the Attorney General regarding *Melendez v. Board of Health* to include the following individuals: Norman Oliver, Joe Hilbert, Allyson Tysinger, Kim Beazley, and Catherine West because 1) their presence in the closed meeting is deemed necessary, and/or 2) their presence will aid the Board in its consideration of the matter. Dr. Kinser so moved with Dr. Klein seconding the motion. The motion was approved unanimously by a voice vote.

Closed session of the Board.

Mr. Critzer made a motion that certified that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed session were heard, discussed, or considered during the closed session just concluded and to re-convene from the closed session. Dr. Klein seconded the motion. The motion was approved unanimously by a roll call vote.

Member Reports

Gary Critzer – Emergency Medical Services (EMS) Representative. He told the Board that all of the standing trauma committees were appointed and began work at the most recent EMS Advisory Board meeting. He stated that it is good to see the work started that will impact patient care in Virginia.

Tommy East – Nursing Home Industry Representative. No report.

Katherine Waddell – Consumer Representative. No report.

Lisa Harrison – Consumer Representative. No report.

Mary Margaret Whipple – Hospital Industry. No report.

Jim Edmondson – Corporate Purchaser of Health Care. No report.

Dr. Benita Miller – Virginia Dental Association (VDA). She told the Board that the VDA is excited to have a new executive director.

Linda Hines – Managed Care Health Insurance Plans. She told the Board that Medicaid expansion enrollment is going well. There is still work going on regarding potential enrollees.

Dr. Anna Jeng – Public Environmental Health Representative. No report.

Stacey Swartz – Virginia Pharmacists Association (VPA). No report. .

Dr. Patricia Kinser – Virginia Nurses Association (VNA). She told the Board about the 2nd Annual Virginia Interprofessional Summit for Addiction Education which will be held on March 29.

Dr. Wendy Klein – Medical Society of Virginia. She told the Board about legislation that MSV followed during the recent General Assembly session including a bill dealing with surprise/balance billing for patients; increased Medicaid reimbursement for mental health providers; streamlining medication prior authorizations; and administrative updates to physician assistant practice.

Dr. Holly Puritz – Medical Society of Virginia. No report.

Faye Prichard – Local Government. She told the Board about the number of people being helped due to Medicaid expansion.

Adjourn

The meeting adjourned at approximately 1:43 p.m.